

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

DEBORAH ANN DICKEY,

Defendant-Appellant.

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UNPUBLISHED

October 24, 2006

No. 261161

Washtenaw Circuit Court

LC No. 04-000896-FH

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of carrying a concealed weapon, MCL 750.227, and having an open container of alcohol in a moving vehicle, MCL 257.624a. She pleaded guilty to operating a motor vehicle while intoxicated, MCL 257.625(1)(a). Defendant was sentenced to one year's probation on all three convictions. She appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant challenges only the sufficiency of the evidence to establish the knowledge requirement for the concealed weapon conviction. We review the evidence de novo, but "in a light most favorable to the prosecution [to] determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). The jury determines the weight of the evidence and the credibility of witnesses. *Id.* at 514-515. Similarly, the jury determines what inferences may be fairly drawn from the evidence and the weight to accord those inferences. Any evidentiary conflicts must be resolved in favor of the prosecution. *People v Girard*, 269 Mich App 15, 21; 709 NW2d 229 (2005). Because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence of this element may be sufficient. *People v McGhee*, 268 Mich App 600, 623; 709 NW2d 595 (2005).

"Carrying a concealed weapon is a general intent crime." *People v Combs*, 160 Mich App 666, 673; 408 NW2d 420 (1987). Thus, "[t]he only intent necessary is an intent to do the act prohibited, to knowingly carry the weapon on one's person or in an automobile." *Id.*

Here, defendant denied knowledge that the revolver was under the front passenger seat, but she indicated knowledge that the revolver was likely in the trunk of the vehicle that she was driving. The arresting officer testified that defendant told him that she was going target shooting

the next day. We find it irrelevant that the revolver was not actually in the trunk but rather under the front seat. Her knowledge that she was carrying the firearm in her car was sufficient to satisfy the intent element of the concealed weapon charge.<sup>1</sup> As in *People v Green*, 260 Mich App 392, 404-405; 677 NW2d 363 (2004), overruled in part on other grnds *People v Anstey*, \_\_\_ Mich \_\_\_; 719 NW2d 579, 586 (2006), the revolver was accessible and within defendant's proximity when she first approached by the police. Two "speed loaders" were also found in an accessible location and within defendant's proximity. And defendant owned the vehicle in which the revolver was found. Accordingly, we conclude that there was ample evidence to charge and convict defendant of the offense. See *People v Butler*, 413 Mich 377, 390 n 11; 319 NW2d 540 (1982) (indicating factors to consider when determining what circumstantial evidence is sufficient to sustain a conviction of carrying a weapon in a motor vehicle). Further, although at trial defendant denied telling the arresting officer that she was going target shooting the next day, it was within the province of the jury to assess the witnesses' credibility.

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

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<sup>1</sup> MCL 750.231a sets forth several exceptions to MCL 750.227(2). However, even if the revolver had been in the trunk, as defendant allegedly believed, the record is devoid of evidence that she was properly transporting the revolver for a lawful purpose at the time of her arrest. See 750.231a(d), (2)(b)(i) (stating that an unloaded pistol may be transported in a closed case designed for the storage of firearms in the trunk of a vehicle while en route to or from a target shooting area).